

**UNITED STATES DEPARTMENT OF COMMERCE****Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/435,170 11/05/99 OLIVARES

H 547 *WC*

QM32/0707

EXAMINER

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ART UNIT	PAPER NUMBER
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3724 *6*

DATE MAILED:

07/07/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No. 09/435,170	Applicant(s) Olivares
Examiner Hwei-Siu Payer	Group Art Unit 3724

Responsive to communication(s) filed on Apr 28, 2000

This action is FINAL.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

Claim(s) 1-3 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

Claim(s) _____ is/are allowed.

Claim(s) 1-3 is/are rejected.

Claim(s) _____ is/are objected to.

Claims _____ are subject to restriction or election requirement.

Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on _____ is/are objected to by the Examiner.

The proposed drawing correction, filed on Apr 28, 2000 is approved disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All Some* None of the CERTIFIED copies of the priority documents have been received.

received in Application No. (Series Code/Serial Number) _____.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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Detailed Action

The amendment filed on 4-28-2000 has been entered.

Claim Rejection - 35 U.S.C. 102(b)

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Torbet.

Torbet's electric knife comprises a handle (16) having an internal cavity containing an electric motor (36) in a mechanical communication with blade receiving means (109); a rechargeable battery (38) disposed within the handle (16) for supplying power to the electric motor (36); a motorized head (i.e. the portion of the knife that houses the blade receiving means) for providing a base for the blade receiving means (109), a plurality of interchangeable blade elements (see Abstract) capable of attaching, in a removable manner, to the blade receiving means (109), and a locking mechanism (111) as claimed.

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Claims Rejection - 35 U.S.C. 103(a)

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Torbet in view of Jeffcoat.

Torbet's knife as set forth shows all the claimed features except it lacks a blade receiving slot in the handle (16) and a locking mechanism for storing any blade elements and for securing any blade elements within the blade receiving slot, respectively.

Jeffcoat teaches (Figs. 19A and 19B, column 12, lines 6-31) a knife comprising a handle having a slot/compartment (238) formed therein for receiving blade elements when not in use and a locking mechanism (242) for securing the blade elements within the blade receiving slot until released. Also, the blade elements can be customized to suit an individual user.

It would have been obvious to one skilled in the art to modify Torbet's knife by providing the knife handle (16) with a compartment formed therein and a locking mechanism to facilitate storing additional blade elements and to provide easy access of the blade elements when needed as taught by Jeffcoat. The claimed type of blade elements is not patentably distinct, since the type of blade elements depends more upon the individual user than on any inventive concept.

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Remarks

Applicant's arguments filed 4-28-2000 have been fully considered but they are not persuasive.

Applicant argues, at page 4 of the amendment, Torbet requires a user to undergo unnecessary difficulty in removing a blade from a detent while the present invention utilizes a blade release button in communication with blade release linkage for releasing a blade from the blade receiving slot/locking mechanism. Applicant's argument appears to be directed primarily to how the blade is removed/released. The alleged "blade release linkage" as means for releasing the blade from the blade receiving slot/locking mechanism is nowhere to be found in Applicant's claims.

Applicant further argues, at page 4 of the amendment, Jeffcoat fails to utilize a motor, a gear box, a power switch, a knife release button, and a knife release linkage. On the contrary, the alleged "gear box", "power switch", "knife release button" and "knife release linkage" are not claimed in the present application.

Jeffcoat is used as a teaching reference to show that it is well known in the art to provide a spare blade compartment in the handle of a knife to facilitate storing additional blades in the knife. Therefore, it would have been obvious to one skilled in the art at the time of the invention to provide an electric knife such as Torbet's with a spare blade compartment such as Jeffcoat's to facilitate storing additional blade elements.

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Action Made Final

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Point of Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hwei-Siu Payer her telephone number is (703) 308-1405. She can normally be reached on Monday through Friday from 7:00 a.m. to 4:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada, can be reached at (703) 308-2187.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [rinaldi.rada@uspto.gov].

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive

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information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1148.

Group FAX number is (703) 305-3579. Any transmission which applicant does not want to be considered as an official response should be clearly marked as "DRAFT".

H. Payer
July 6, 2000

Hwei-Siu Payer
Hwei-Siu Payer
Primary Examiner